

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>EAST-CENTRAL IOWA RURAL ELECTRIC COOPERATIVE,</p> <p style="text-align:right">Complainant,</p> <p style="text-align:center">vs.</p> <p>INTERSTATE POWER AND LIGHT COMPANY,</p> <p style="text-align:right">Respondent.</p>	<p>DOCKET NO. SPU-04-13</p>
---	-----------------------------

PROCEDURAL ORDER AND NOTICE OF HEARING

(Issued July 21, 2004)

On May 17, 2004, East-Central Iowa Rural Electric Cooperative (East-Central) filed a service territory complaint against Interstate Power and Light Company (IPL) with the Utilities Board (Board). In its complaint, East-Central alleged that IPL has extended service and is providing service to customers located within the electric service territory assigned to East-Central in Section 36, Township 89 North, Range 8 West of the Fifth P.M. in Buchanan County, Iowa, and in Section 2, Township 88 North Range 8 West of the Fifth P.M., Buchanan County, Iowa. East-Central further alleged it had notified IPL of the unlawful service and IPL had refused to assign or transfer service of the customers to East-Central. East-Central alleged this service by IPL is a violation of Iowa Code § 476.25(3) (2003), and requested the Board to

order appropriate corrective action, including discontinuance of the unlawful service to the affected customers, removal of the unlawful facilities, transference of the service of the customers to East-Central, and such other relief as the Board deems just and reasonable.

On June 7, 2004, IPL filed a request for extension of time to answer the complaint that was granted in an order issued by the Board on June 9, 2004. On June 28, 2004, IPL filed an answer and petition for service area boundary modification. In its answer, IPL alleged it has continuously and exclusively provided service to the customers in the areas in question since before the initial service area maps were filed with the Board in the late 1970s, and East-Central has never provided service to the customers. IPL further alleged the maps for the area in question did not comply with the requirements of Iowa Code § 476.25(1), that modifications may be made, and that the maps for the disputed areas do not accurately reflect the IPL service area and must be modified. IPL stated it has not agreed to transfer service of the customers to East Central. IPL alleged that, if the Board determines that East-Central will serve the customers in dispute, Iowa Code § 476.25(1) requires East-Central to purchase the facilities presently serving the customers at a reasonable price to be determined by the Board. In its petition, IPL alleged it is in the public interest to modify the service territory in Buchanan County for the reasons stated in the answer and to avoid duplication of facilities. IPL alleged it has existing gas and electric facilities in the disputed area and East-Central does not. IPL further alleged it is in the process of a system-wide upgrade in Winthrop, the

IPL substation serving the disputed customers is within blocks, and the East-Central substation is approximately three miles away. IPL provided legal descriptions of the two areas it wishes to have included in the IPL service area. IPL further alleged it is in the public interest to allow it to continue to serve the disputed areas, and stated it was serving customers in the areas prior to January 1, 1976, when the exclusive electric territory maps were created. IPL alleged the service territory maps do not correctly reflect the areas actually being served by IPL and East-Central, and allowing IPL to continue to serve the customers will avoid multiple utility billings for the affected residents and the City of Winthrop. IPL requested that East-Central's complaint be dismissed and that IPL's petition for modification be granted. IPL requested, in the alternative, if the Board determines East-Central will serve the disputed customers that the Board set the price to be paid by East-Central for the IPL facilities presently used to serve the customers.

On July 8, 2004, the Board issued an order assigning this case to the undersigned administrative law judge.

On July 16, 2004, East-Central filed an answer to IPL's petition for service area boundary modification. East-Central stated it has electric facilities in the vicinity of the disputed customers and stands ready and willing to extend electric service to the customers. East-Central denied the area described by IPL should be included in IPL's service area and alleged it would be in the public interest to deny IPL's petition. East-Central alleged that such denial would make clear to all utilities they are responsible for knowing their electric service area boundaries and which customers

they may lawfully serve. East-Central further alleged that denying modification would promote the public interest by confirming that tolerance of service at variance with established boundaries is illegal, and the utility providing illegal service should not be rewarded. East-Central requested that IPL's petition be dismissed and that the Board take appropriate action on East-Central's complaint.

Pursuant to the Board's order and Iowa Code Chapter 17A, § 476.25, and 199 IAC Chapter 7, a procedural schedule will be established and a date set for hearing. The statutes and rules involved in this case include Iowa Code §§ 476.22 through 476.26, and Board rules at 199 IAC §§ 1.8, 20.3(8) through 20.3(10), and Chapter 7. Links to the Iowa Code and the Board's administrative rules are contained on the Board's website at www.state.ia.us/iub.

IT IS THEREFORE ORDERED:

1. If it has not already done so, each party must file an appearance identifying one person upon whom the Board may serve all orders, correspondence, or other documents. The written appearance must substantially comply with 199 IAC 2.2(15). The appearance must include the docket number of this case as stated in the caption above and must be filed with the Executive Secretary, Utilities Board, 350 Maple Street, Des Moines, Iowa 50319. The appearance must be accompanied by a certificate of service that conforms to 199 IAC 2.2 and verifies that a copy of the document was served upon the other parties.

2. On or before August 23, 2004, East-Central must file prepared direct testimony and exhibits to support its service territory complaint. East Central should use exhibit numbers one and following.

3. On or before August 23, 2004, IPL must file prepared direct testimony and exhibits to support its petition for service area boundary modification. IPL should use exhibit numbers 100 and following.

4. On or before September 13, 2004, East-Central and IPL must file prepared responsive testimony and exhibits.

5. If the Consumer Advocate is going to file prepared testimony and exhibits, it must do so by September 13, 2004. The Consumer Advocate should use exhibit numbers 200 and following.

6. If any party wishes to file rebuttal testimony and exhibits, it must do so by October 4, 2004.

7. A hearing for the presentation of evidence and the cross-examination of witnesses will be held in Conference Rooms 3 and 4, 350 Maple Street, Des Moines, Iowa, on Tuesday, October 19, 2004, beginning at 10 a.m. Each party must provide a copy of its prepared testimony and exhibits to the court reporter. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at 515-281-5256 no later than five business days prior to the hearing date to request that appropriate arrangements be made.

8. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination will become part of the evidentiary record

of these proceedings. Pursuant to 199 IAC 7.2(6), the party making reference to the data request must file one original and three copies of the data request and response with the Executive Secretary of the Board at the earliest possible time.

9. Any person not currently a party who wishes to intervene in this case must meet the requirements for intervention in 199 IAC 7.2(7). The person must file a petition to intervene on or before 20 days following the date of issuance of this order, unless the petitioner has good cause for the late intervention. 199 IAC 7.2(8). If an intervenor is going to file prepared testimony and exhibits, it must do so by September 13, 2004.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 21st day of July, 2004.